

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

CRIMINAL NO. 17-297-FAB

v.

LUIS MERCED-GARCIA,
Defendant.

**UNITED STATES OF AMERICA'S MOTION REQUESTING
DE NOVO DETENTION HEARING**

The United States of America, through its undersigned counsel, respectfully requests that this Court, having original jurisdiction over the offenses charged in the Indictment (violations of 18 U.S.C. § 924(c) (machine gun) and 21 U.S.C. § 841(a)(1) (cocaine)), review the release order entered by the Magistrate Judge on May 31, 2017 and revoke this release after a *de novo* bail hearing in order to reasonably assure the safety of the community as provided by 18 U.S.C. § 3142.

In a one-bedroom residence where the defendant lived, he was found with a machinegun, five other guns, over 1,600 rounds of ammunition, 49 magazines of different calibers (including numerous high-capacity magazines), and approximately 260 bags of a white powdery substance that is believed to be cocaine. Another machinegun was found in defendant's car. In a recorded interview, defendant took responsibility for the guns and the drugs. He has been charged by a

federal grand jury with violations of 18 U.S.C. § 924(c) (machine gun) and 21 U.S.C. § 841(a)(1) (cocaine).

Because no conditions of release can be reasonably crafted that would ensure the community's safety, his bail should be revoked.

Factual Background¹

On May 3, 2017 around 6:30 PM, PRPD agents executed a local search warrant for a one-bedroom residence located at Carr. 867 km. 5.5 Bo. Ingenio in Toa Baja, Puerto Rico, in which Merced-Garcia resided.

Upon entering the residence, PRPD agents performed a protective sweep and encountered Luis Merced-Garcia inside of the living room of the residence and a co-defendant inside of the bedroom. PRPD agents obtained written consent from Merced-Garcia to search the vehicle by the house, where they discovered a Glock Pistol (model 23, caliber .40) that had been modified to function automatically as a machinegun.

The items found inside the house included:

- One Glock pistol (model 23, caliber .23), which had been modified to be a machinegun and that was loaded with ammunition
- One Keltec pistol (model PLL16, caliber: 5.56) loaded with ammunition
- One Glock pistol (model: 35, caliber .40), loaded with ammunition
- One Kimar pistol stunt gun (which fires blank rounds) (model: 92, caliber .8mm)

¹ The facts stated herein are largely based the facts set forth in the affidavit filed in support of the criminal complaint at 3:17-mj-00904-BJM. (See Docket Entry No. 1-1.)

Inside of the bathroom near the bedroom, the agents seized the following from the closet:

- One Frontier revolver (model Derringer)
- One Titan pistol (caliber 2)
- One Glock pistol (model: 38, caliber .45)
- 49 assorted magazines of different caliber ammunition—several of which were high-capacity magazines
- Multiple boxes of assorted ammunition, including 295 rounds of .45 caliber ammunition, 328 rounds of .40 caliber ammunition, 96 rounds of 9mm ammunition, 448 rounds of 7.62 caliber ammunition, 445 rounds of .223 caliber ammunition, 2 rounds of .38 caliber ammunition, and 2 rounds of .357 caliber bullets
- A firearm cleaning kit
- Four digital scales
- 166 small blue zip lock baggies containing a white powdery substance
- 100 small orange zip lock baggies containing white powdery substance
- One plastic zip lock bag containing a white powdery substance that field tested positive for cocaine
- 154 white prescription pills inside an orange plastic container with white cap
- Two white prescription pills inside a blue container with white cap
- Two black pills inside blue container with white cap
- Two containers with white cap containing a green leafy substance
- Three white containers containing a white powdery substance

- Two digital scales
- \$612 in cash
- A drug ledger

Upon being questioned after being *Mirandized*, Merced-Garcia stated in a recorded interview that he had responsibility for the guns and drugs found in the house.

Merced-Garcia has a medical condition that may be the result of gunshot wounds and that impairs his ability to walk without a cane. He has electric equipment connected to his body.

Relevant Procedural Background

At the initial appearance of Merced-Garcia on May 8, the magistrate judge released the defendant on \$10,000 unsecured bond. (Dkt. No. 7)

On May 10, a federal grand jury returned a three-count indictment against Mulero-Vargas and Merced-Garcia for violations of 18 U.S.C. § 924(c) (two machine guns), 18 U.S.C. § 924(c) (five other guns), and 18 U.S.C. § 841 (cocaine).

On May 31, a detention/bail hearing was held for Merced-Garcia, during which the magistrate judge concluded that Merced-Garcia should continue to be free on bail.

Argument

In light of: (1) the machinegun found in his car, (2) the multiple firearms (including another machinegun) that were located in the house where he lived, (3) over 1,600 rounds of ammunition in his residence, (3) 49 magazines (including a large number of high-capacity magazines) in his residence, (4) the large quantity of drugs in his residence, and (5) defendant's recorded confession in which he took responsibility for the guns and the drugs, the United States respectfully submits

that there is no condition or set of conditions that could reasonably assure the safety of the community.

Photos of the evidence recovered from the search were filed at Dkt. No. 14-1.

It is true that the defendant has a medical condition that may require extra attention from the Bureau of Prisons and may require that defendant be sent to Atlanta or another location in order to obtain proper treatment. That is no reason to allow the defendant—whom a grand jury has found probable cause to conclude committed an offense punishable by a mandatory minimum of 30 years in prison—to roam free. Due to limited capacity at the Metropolitan Detention Center, other prisoners have been incarcerated out of Puerto Rico pending trial. Defendant should not be treated differently.

Accordingly, for the reasons set forth above, the United States respectfully requests that a *de novo* bail hearing be scheduled in order for the United States to request a review of the Order granting release to Defendant.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 31st day of May 2017,

ROSA EMILIA RODRIGUEZ VELEZ
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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants.

s/ Jonathan Gottfried
Jonathan Gottfried
Assistant United States Attorney